

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION AT DAYTON**

NICHOLAS E. ALAHVERDIAN,

Plaintiff,

:

Case No. 3:15-cv-060

- vs -

Magistrate Judge Michael R. Merz

CHRISTOPHER NEMELKA,

Defendant.

:

ORDER DISMISSING CASE FOR WANT OF PROSECUTION

This case is before the Court *sua sponte*. By Scheduling Order filed February 3, 2016 (ECF No. 27), the Court set dates for disclosure of lay and expert witnesses, the cut-off of discovery, the filing of summary judgment motions, and trial. No witness lists or summary judgment motions have ever been filed.

The Scheduling Order set a jury trial date of February 21, 2017, and provided that the parties were to file a joint proposed final pretrial order not later than February 6, 2017. No such proposed order has been filed. Prompted for a status report in January 2017 Plaintiffs' counsel indicated a possible motion for continuance might be filed, but it has not.

This Court's General Order on Pre-Trial and Trial Procedures (General Order Day 12-01) cautions counsel

The joint proposed final pretrial order must be jointly prepared. If
the parties fail to file and email to chambers a joint proposed final

pretrial order, the final pretrial conference will likely be canceled, the trial will likely be continued, and counsel will be subject to sanctions, including possible dismissal for failure to prosecute.

In a case such as this where the docket shows absolutely no activity on Plaintiff's part despite the pendency of this action for almost two years and an express request from chambers for a status report, the proper sanctions is dismissal.

It is accordingly ORDERED that the above-captioned action be, and it hereby is DISMISSED WITHOUT PREJUDICE for want of prosecution. The Clerk will enter judgment to that effect.

February 7, 2017.

s/ *Michael R. Merz*
United States Magistrate Judge